

# COMMISSION OF THE EUROPEAN COMMUNITIES

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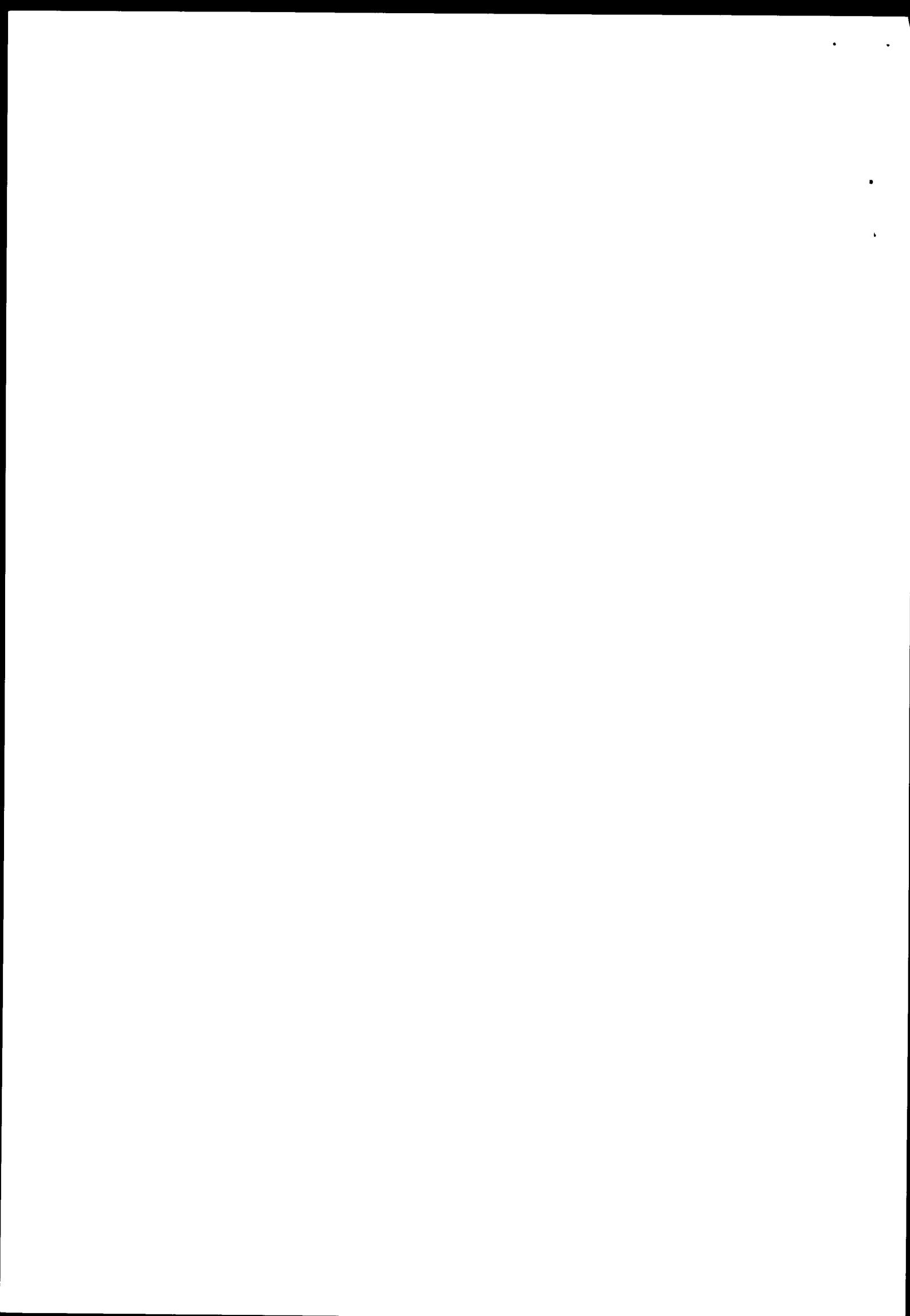
Brussels, 19 September 1988

Proposal for a  
COUNCIL REGULATION (ECSC, EEC, Euratom)

implementing the Decision of 24 June 1988 on the  
system of the Communities' own resources

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(presented by the Commission)



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Explanatory memorandum

1. In the light of the experience gained in the application of Council Regulation No 2891/77 of 19 December 1977, and to make good certain deficiencies, the Commission presented the following proposals:
  - Proposal for a Council Regulation amending Regulation (EEC, Euratom, ECSC) No 2891/77 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (OJ C 231, 4 September 1982);
  - Amendment to the proposal for a Council Regulation amending Regulation No 2891/77 (OJ C 146, 4 June 1983);
  - Second amendment to the proposal for a Council Regulation amending Regulation No 2891/77 (OJ C 303, 10 November 1983);
  - Third amendment to the proposal for a Council Regulation amending Regulation No 2891/77 (OJ C 219, 21 August 1984).

These proposals were presented to the Council on 23 July 1982, 20 May 1983, 24 October 1983 and 31 July 1984 respectively.

2. The initial proposal and the first amendment to it were considered on 15 June 1987 at a conciliation meeting between Parliament and the Council on the basis of the common position adopted by the Council on 8 December 1986. On 30 June 1988 the Council then adopted the amendments agreed on during conciliation, except for Article 12 (overdrawing on the Commission's accounts with the Member States) and Article 18(3) (independent inspections by the Commission) (see Regulation No 1990/88<sup>1</sup> amending Regulation No 2891/77).
3. On 13 June 1988 the Council adopted a common position on the second and third amendments to the Commission proposal. The Commission regards this common position as unsatisfactory.
4. In the mean time, on 24 June 1988, following the conclusions of the Brussels European Council of 11-13 February, the Council has adopted a new Decision on the system of the Communities' own resources.<sup>2</sup>

The application of this Decision and in particular the new arrangements for VAT own resources and the additional resources based on the sum of all the Member States' GNP, will require adjustments to the current

<sup>1</sup> OJ L 176, 7 July 1988.

<sup>2</sup> OJ L 185, 15 July 1988

rules, which will mean amendments to a number of provisions already covered by the Commission's earlier proposals and to certain provisions recently adopted by the Council in Regulation No 1990/88.

5. The Commission therefore feels the best solution would be to present a new complete and coordinated regulation for the application of the Decision of 24 June 1988, rather than yet another proposal for an amendment, which would only complicate matters further. There are reasons of substance too for withdrawing the two proposals. The common position adopted by the Council on 13 June 1988 presents solutions which the Commission considers inadequate as regards the establishment of own resources, the supply of information to the Commission on cases of fraud and non-recovery, and independent inspections carried out by the Commission.
6. For these reasons, the Commission, having withdrawn its proposals for a second and a third amendment to the initial proposal for the revision of Regulation No 2891/77, is presenting a proposal for a new Regulation implementing the Decision of 24 June 1988, replacing, from 1 January 1989, Council Regulation No 2891/77 as amended by Regulation No 1990/88 of 30 June 1988.

Wherever possible, and taking account of the technical amendments resulting from the Decision of 24 June 1988, the new proposal retains the provisions already contained in these two regulations and in the common position adopted by the Council on 13 June 1988.

## II

*(Preparatory Acts)*

## COMMISSION

**Proposal for a Council Regulation (ECSC, EEC, Euratom) implementing the Decision of 24 June 1988 on the system of the Communities' own resources**

*COM(88) 483 final*

*(Submitted by the Commission on 22 September 1988)*

*(88/C 255/08)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78h thereof,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to the Decision of 24 June 1988 on the system of the Communities' own resources, hereinafter referred to as 'the Decision of 24 June 1988', and in particular Article 8 (2) thereof<sup>(1)</sup>,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

Whereas for implementation of the Decision of 24 June 1988 and in the light of experience gained in applying Council Regulation (EEC, Euratom, ECSC) No 2891/77 of 19 December 1977<sup>(2)</sup> as amended by Council Regulation (ECSC, EEC, Euratom) No 1990/88 of 30 June 1988<sup>(3)</sup>, hereinafter referred to as 'Regulation No 2891/77', the Regulation will need to be amended to such an extent that it is better to replace it;

Whereas the own resources referred to in Article 2 of the Decision of 24 June 1988 must be available to the Community;

Whereas the concept of establishment must be defined in respect of the own resources referred to in Article 2 (1) (a) and (b) of the Decision of 24 June 1988;

Whereas separate accounts should be kept for entitlements which have not been recovered; whereas these accounts and the submission of a quarterly statement of such accounts should enable the Commission to monitor more closely the action taken by Member States to collect own resources, and particularly those compromised by fraud or irregularities;

Whereas provision should be made, as regards the own resources accruing from value added tax, hereinafter called 'VAT resources', referred to in Article 2 (1) (c) of the Decision of 24 June 1988, for Member States to make available to the Community, in the form of constant monthly twelfths, the own resources entered in the budget and subsequently to adjust the amounts made available in accordance with the actual VAT assessment base as soon as it is fully known;

Whereas this procedure is also to apply to the additional resource referred to in Article 2 (1) (d) of the Decision of 24 June 1988, hereinafter referred to as 'the additional resource', created in accordance with Council Directive 88/.../EEC of 24 June 1988, hereinafter referred to as 'the Directive of 24 June 1988';

Whereas the own resources must be made available in the form of an entry of the amounts due in a special account opened in the name of the Commission with a financial institution appointed for the purpose by agreement between the Commission and the Member State concerned; whereas the balances on these accounts should bear interest; whereas in order to restrict movements of funds to what are necessary for the implementation of the budget, the Community must allow the abovementioned accounts to be drawn upon solely to cover the Commission's cash requirements;

<sup>(1)</sup> OJ No L 185, 15. 7. 1988.

<sup>(2)</sup> OJ No L 336, 27. 12. 1977.

<sup>(3)</sup> OJ No L 176, 7. 7. 1988.

Whereas the balance to be carried forward to the following financial year should be defined;

Whereas, in order to ensure that the Community budget will be financed in all circumstances, the procedure for making available the GNP based contributions referred to in Article 2 (7) of the Decision of 24 June 1988 should be laid down;

Whereas the Member States must keep at the disposal of the Commission and, where necessary, forward to it the documents and information needed to allow it to exercise the powers conferred upon it as regards the Communities' own resources and budgetary procedure;

Whereas the Member States should conduct the checks and inquiries relating to the establishment and making available of own resources; whereas the Commission should exercise its powers in accordance with this Regulation;

Whereas close cooperation between Member States and the Commission will facilitate the application of this Regulation, the aim of which is to enable the Communities to dispose of their own resources under the best possible conditions,

HAS ADOPTED THIS REGULATION:

#### TITLE I

##### General provisions

###### Article 1

The Communities' own resources provided for in the Decision of 24 June 1988 shall be established by the Member States in accordance with Community provisions or, in the absence thereof, in accordance with their own laws, regulations or administrative provisions. They shall be made available to the Commission and inspected as specified in this Regulation, without prejudice to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977<sup>(1)</sup>.

###### Article 2

1. For the purpose of applying this Regulation, the Communities' entitlement to the own resources referred to in Article 2 (1) (a) and (b) of the Decision of 24 June 1988 shall be established as soon as the appropriate department of the Member State has notified the debtor of the amount which is due or which it considers to be due. Notification shall be given as soon as the debtor is known and the amount of tax can be determined or estimated by the appropriate administrative authorities.

2. Paragraph 1 shall apply when a notification must be corrected.

###### Article 3

Member States shall take all appropriate measures to ensure that the supporting documents concerning the establishment and the making available of own resources are kept for at least three calendar years as from the end of the year to which these supporting documents refer.

If verification of these supporting documents by the national administration alone or in conjunction with the Commission shows that an establishment to which they relate may have to be corrected, they shall be kept beyond the time limit provided for in the first subparagraph for a sufficient period to permit the correction to be made and checked.

###### Article 4

1. Each Member State shall inform the Commission:

- (a) of the names of the departments or agencies responsible for establishing own resources and, where appropriate, their status;
- (b) of the laws, regulations, administrative provisions and accounting procedures for establishing own resources and making them available to the Commission.

2. The Commission shall, at the request of the other Member States, pass to them the information referred to in paragraph 1.

###### Article 5

The rate referred to in Article 2 (1) (d) of the Decision of 24 June 1988, which shall be set within the budgetary procedure, shall be calculated as a percentage of the sum of the forecast GNP of the Member States in such manner that it fully covers that part of the budget not financed from customs duties, agricultural levies, VAT resources, financial contributions to supplementary research and technological development programmes, other revenue and, where appropriate, GNP based financial contributions. This rate shall be expressed in the budget by a figure rounded off to the fourth decimal place.

#### TITLE II

##### Accounts for own resources

###### Article 6

1. Accounts for own resources shall be kept by the Treasury of each Member State or by the body appointed by each Member State and broken down by type of resources.

<sup>(1)</sup> OJ No L 336, 27. 12. 1977.

2. (a) The entitlements established in accordance with Article 2 shall, subject to point (b), be recorded in the accounts no later than the first working day of the second month following the month during which the entitlements were established.

(b) Entitlements which are established but not recorded in the accounts as specified in point (a) because they have not yet been recovered and no security has been lodged, shall be recorded in separate accounts within the time limit specified in point (a).

Member States may take the same action when established entitlements covered by guarantees are challenged and are liable to change as a result of the dispute.

(c) VAT resources and the additional resources shall however, be recorded in the accounts as specified in point (a) as follows:

- the twelfth referred to in Article 10 (3) shall be recorded on the first working day of each month,
- the balances referred to in Article 10 (4) and (7) and the adjustments referred to in Article 10 (6) and (8) shall be recorded annually, except for the particular adjustments referred to in the first indent of Article 10 (6), which shall be recorded in the accounts on the first working day of the month following agreement between the Member State concerned and the Commission.

3. Each Member State shall send the Commission, within the time limits specified in paragraph 2, a monthly statement of its accounts for the entitlements referred to in paragraph 2 (a) and (b), and a quarterly statement for the separate accounts referred to in paragraph 2 (b).

The quarterly statement shall include a brief description of cases of fraud and irregularities involving entitlements of over 10 000 ECU.

#### *Article 7*

Each Member State shall draw up yearly a summary account of established entitlements together with a report on the establishment and entry in the accounts of own resources and shall send it to the Commission before 1 May of the year following the financial year in question.

#### *Article 8*

Corrections carried out under Article 2 (2) shall be added to or subtracted from the total amount of established entitlements. They shall be recorded in the accounts as specified in Article 6 (2) (a) and (b) and in the statements as specified in Article 6 (3) in accordance with the date of these corrections.

Corrections in respect of cases of fraud and irregularities already notified to the Commission shall be singled out.

### TITLE III

#### **Making available own resources**

##### *Article 9*

1. Subject to Article 10 (1) (b), the amount of own resources established, after 10 % has been deducted by way of collection costs in accordance with Article 2 (3) of the Decision of 24 June 1988, shall be credited by each Member State to the account opened in the name of the Commission with a financial institution appointed for the purpose by agreement between the Commission and the Member State concerned.

However, VAT resources, the additional resource and, where appropriate, GNP based financial contributions shall be credited in accordance with the procedure laid down in Article 10 (3) to (8). This account shall earn interest at a rate reflecting the interbank money market rate for the currency concerned.

2. The amounts credited shall be converted by the Commission and entered in its accounts in ECU on the basis of the ECU rate used for the month during which such entry is made.

##### *Article 10*

1. (a) The credit entry referred to in Article 9 (1) shall be made, subject to point (b), no later than the first working day of the second month following the month during which the entitlement was established in accordance with Article 2.

(b) Entitlements recorded in the separate accounts in accordance with Article 6 (2) (b) shall be credited no later than the first working day of the second month following the month during which the entitlements are recovered.

(c) Member States shall notify the Commission by telex, at least four working days in advance, of the amounts they are going to credit to the account.

2. If necessary, Member States may be invited by the Commission to bring forward by one month the crediting of resources other than VAT resources and the additional resource. In this case, the credit entry referred to in paragraph 1 shall be for twice the amount of customs duties, agricultural levies and sugar storage levies.

Each entry brought forward shall be adjusted the following month when the entry mentioned in paragraph

1 is made. This adjustment shall consist in the negative entry of an amount equal to that in the entry brought forward.

3. However, VAT resources, the additional resource and, where appropriate, GNP based financial contributions shall be credited on the first working day of each month, the amounts being one twelfth of the relevant totals in the budget, converted into national currencies at the rates of exchange used for the conversion into ECU for budgetary purposes of the VAT base and GNP forecasts drawn up by the Member States in their national currencies.

The entry in respect of the EAGGF monetary reserve referred to in Article 6 of the Decision of 24 June 1988 shall be made on the first working day of the month following the charging to the budget of the expenditure concerned and shall be limited to the said expenditure.

Any change in the uniform rate of VAT resources, in the correction granted to the United Kingdom referred to in Article 5 of the Decision of 24 June 1988 and in its financing, in the uniform rate of the additional resource and, where appropriate, in the GNP based financial contributions shall require the final adoption of a supplementary or amending budget and shall give rise to readjustments of the twelfths which have been entered since the beginning of the financial year.

These readjustments shall be carried out when the first entry is made following the final adoption of the supplementary or amending budget if it is adopted before the 16th of the month. Otherwise they shall be carried out when the second entry following final adoption is made. By way of derogation from Article 5 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities<sup>(?)</sup> as last amended by Council Regulation (ECSC, EEC, Euratom) No 2049/88 of 24 June 1988<sup>(\*)</sup>, these readjustments shall be entered in the accounts in respect of the financial year of the supplementary amending budget in question.

Calculation of the twelfths for January of each financial year shall be based on the amounts provided for in the draft budget, with the exception of the amounts for financing the EAGGF monetary reserve, referred to in Article 78 (3) of the ECSC Treaty, Article 203 (3) of the EEC Treaty and Article 177 (3) of the Euratom Treaty; the adjustment shall be made with the entry for the following month.

If the budget has not been finally adopted before the beginning of the financial year, the Member States shall enter on the first working day of each month, including January, one twelfth of the amount of VAT own

resources, of the additional resource, with the exception of the amounts for financing the EAGGF monetary reserve, and, where appropriate, of the GNP based financial contributions entered in the last budget finally adopted; the adjustment shall be made on the first due date following final adoption of the budget if it is adopted before the 16th of the month. Otherwise, the adjustment shall be made on the second due date following final adoption of the budget.

4. Each Member State shall, on the basis of the annual statement of VAT resources provided for in Article 10 (1) of Regulation (EEC, Euratom, ECSC) No 2892/77, be debited with an amount calculated from the information contained in the said statement by applying the uniform rate adopted for the previous financial year and credited with the 12 payments made during that previous financial year. However, each Member State's VAT resources base to which the above rate is applied may not exceed 55 % of its GNP as referred to in the first sentence of paragraph 7. The Commission shall work out the balance and shall inform the Member States in time for them to enter it in the account referred to in Article 9 (1) of this Regulation on the first working day of December of the same year.

5. The Commission shall then calculate adjustments to the financial contributions so as to restore, in the light of the actual yield from VAT resources, the original distribution in the budget between the latter and the GNP based financial contributions. For the calculation of these adjustments, the balances referred to in paragraph 4 shall be converted into ECU at the rates of exchange applying on the first working day after 15 November preceding the entries provided for in paragraph 4. For each Member State concerned, the total of VAT balances shall be adjusted by the ratio between VAT resources and the financial contributions entered in the budget. The Commission shall communicate the results of this calculation to the Member States which, during the previous financial year, paid GNP based financial contributions so that they can make a credit or debit entry as appropriate in the account referred to in Article 9 (1) on the first working day of December of the same year.

6. Any corrections to the VAT resources base under Article 10b (1) of Regulation (EEC, Euratom, ECSC) No 2892/77 shall give rise for each Member State concerned whose base does not exceed 55 % of its GNP to the following adjustments to the balance referred to in paragraph 4 of this Article:

— The corrections under the first subparagraph of Article 10b (1) of the said Regulation shall give rise to a general adjustment to be entered in the account referred in Article 9 (1) of this Regulation on the first working day of December of the same year, provided

(?) OJ No L 356, 31. 12. 1977.

(\*) OJ No L 185, 15. 7. 1988.



that the correction applies to years after 1987; otherwise the adjustment shall be made on 1 August of the same year. However, a particular adjustment may be entered before that date if the Member State concerned and the Commission are in agreement;

- where the measures which the Commission takes under the second subparagraph of Article 10b (1) of Regulation (EEC, Euratom, ECSC) No 2892/77 to correct the base lead to an adjustment of the entries in the account referred to in Article 9 (1) of this Regulation, that adjustment shall be made on the date specified by the Commission pursuant to the said measures.

The changes to GNP referred to in the first subparagraph of paragraph 8 shall also give rise to an adjustment of the balance of any Member State whose base is capped at 55 % of its GNP. The adjustments to be made to the VAT balances by the first working day of December of each year under the preceding subparagraphs of this paragraph shall also give rise to the calculation by the Commission of further adjustments to the GNP based financial contributions. The exchange rates to be employed in calculating these further adjustments shall be those used for the initial calculation referred to in paragraph 5.

The Commission shall inform the Member States of these adjustments so that they can enter them in the account referred to in Article 9 (1) on the first working day of December of the same year.

7. On the basis of figures for aggregate GNP at market prices and its components, supplied by the Member States in accordance with Article 3 (2) of the Council Directive of 24 June 1988 and subject to Article 6 thereof, the Commission shall establish the GNP of the previous financial year for each Member State. Each Member State shall be debited with an amount calculated by applying to GNP the uniform rate adopted for the previous financial year, account being taken of any drawings on the EAGGF monetary reserve, and credited with the 12 payments made during that previous financial year. The Commission shall work out the balance and shall inform the Member States in time for them to enter it in the account referred to in Article 9 (1) of this Regulation on the first working day of December of the same year.

8. Any changes to the GNP of previous financial years, pursuant to Article 3 (2) of the Council Directive of 24 June 1988 and subject to Article 6 thereof, shall give rise for each Member State concerned to an adjustment to the balance established pursuant to paragraph 7. The Commission shall inform the Member States of these adjustments so that they can enter them in the account referred to in Article 9 (1) of this Regu-

lation on the first working day of December of the same year. After the third year following a given financial year, any changes to GNP shall no longer be taken into account, except on points notified within this time limit either by the Commission or by the Member State.

9. The operations referred to in paragraphs 4, 5, 6, 7 and 8 constitute modifications in respect of the financial year in which they occur.

#### *Article 11*

Any delay in making the entry in the account referred to in Article 9 (1) shall give rise to the payment of interest by the Member State concerned at the interest rate applicable on the Member State's money market on the due date for short-term public financing operations, increased by 2 percentage points. This rate shall be increased by 0.25 of a percentage point for each month of delay. The increased rate shall be applied to the entire period of delay.

### TITLE IV

#### **Management of cash resources**

#### *Article 12*

1. The Commission shall draw on the sums credited to the accounts referred to in Article 9 (1) to the extent necessary to cover its cash resource requirements arising out of the implementation of the budget.

2. If the cash resource requirements are in excess of the assets of the accounts, the Commission may draw in excess of the total of these assets subject to the availability of appropriations in the budget and within the limit of the total revenue entered in the budget. In this event, it shall inform the Member States in advance of any foreseeable excess requirements.

3. In the sole case of default under a loan contracted pursuant to regulations and decisions of the Council, in circumstances in which the Commission cannot activate other measures provided for by the financial arrangements applying to these loans in time to ensure compliance with the Community's legal obligations to its lenders, the provisions of paragraphs 2 and 4 may provisionally be applied irrespective of the conditions in paragraph 2 in order to service the Community's debts.

4. The difference between the overall assets and the cash resource requirements shall be divided among the Member States, as far as possible, in proportion to the estimated budget revenue from each of them.

5. The financial institution referred to in Article 9 (1) shall execute the orders and instructions sent by the Commission within the time limit specified by the latter.

When no time limit is specified, the financial institution shall credit the accounts of the final beneficiaries with their financial institutions as soon as possible, and at all events within five working days after receiving the Commission's orders and instructions.

6. The financial institution shall send a statement of account to the Commission no later than three working days after each operation.

#### TITLE V

### Procedure for the application of Article 2 (7) of the Decision of 24 June 1988

#### Article 13

1. This Article shall apply where it may be necessary to implement the provisional derogation provided for in Article 2 (7) of the Decision of 24 June 1988.

2. The GNP at market prices shall be calculated by the Statistical Office of the European Communities, on the basis of statistics prepared according to the European System of Integrated Economic Accounts (ESA), and corresponding, for each Member State, to the arithmetic mean of the first three years of the five-year period preceding the financial year in respect of which the provisions of Article 2 (6) of the Decision of 24 June 1988 have been applied. No account shall be taken of any revisions of statistical data made after the final adoption of the budget.

3. The gross national product for each reference year shall be calculated in terms of the ECU on the basis of the average rate of the ECU for the year in question.

4. As long as the derogation provided for in Article 2 (7) of the Decision of 24 June 1988 applies to one or more Member States, the Commission shall, in its preliminary draft budget, fix the percentage corresponding to the financial contributions of those Member States on the basis of the proportion of their GNP to the sum total of the gross national products of the Member States, and shall determine the amount of that part of the budget to be financed by VAT resources at the uniform rate and by financial contributions.

These figures shall be approved in accordance with budgetary procedure.

#### Article 14

1. The definition of GNP at market prices shall be that given in Articles 1 and 2 of the Directive of 24 June 1988.

2. The figures to be used in calculating the percentage of financial contributions shall be those supplied pursuant to Article 3 (2) of the Council Directive of 24 June 1988 and subject to Article 6 thereof. In the absence of such figures the Statistical Office of the European Communities shall use the data available.

#### TITLE VI

### Procedure for the application of Article 7 of the Decision of 24 June 1988

#### Article 15

For the purposes of applying Article 7 of the Decision of 24 June 1988, the balance of a given financial year shall consist of the difference between:

- all the revenue collected in respect of that financial year, and
- the amount of payments made against appropriations for that financial year increased by the amount of the appropriations for the same financial year carried over pursuant to Articles 6 (1) (b) and (c) and 2 (b) of the Financial Regulation.

This difference shall be increased or decreased on the one hand, by the net amount of appropriations carried forward from previous financial years which have lapsed and, on the other hand, by way of derogation from Article 4 of the Financial Regulation, by:

- payments made in excess of non-differentiated appropriations carried over from the previous financial year under Article 6 (1) of the Financial Regulation as a result of changes in ECU rates, and
- the balance resulting from exchange gains and losses during the financial year.

#### Article 16

1. The Commission shall, before the end of October in each financial year, make an estimate of the own resources collected for the entire year, on the basis of the data at its disposal at that time.

If appreciable differences from the original estimates appear, the former may give rise to a letter of amendment to the draft budget for the following financial year.

#### TITLE VII

### Provisions concerning inspection measures

#### Article 17

1. Member States shall take all requisite measures to ensure that the amount corresponding to the entitlements

established under Articles 1 and 2 are made available to the Commission as specified in this Regulation.

2. Member States shall be free from the obligation to place at the disposal of the Commission the amounts corresponding to established entitlements solely if, for reasons of *force majeure* these amounts have not been collected. Moreover, in exceptional cases, Member States shall be entitled not to make these amounts available to the Commission if, after a detailed examination of the relevant details of the case, it is found that recovery is definitively impossible, for reasons beyond their control. Cases involving amounts of over 10 000 ECU must be mentioned in the report referred to in paragraph 3.

3. Member States shall notify the Commission, in six-monthly reports, of the outcome of their inspections and of comprehensive information and questions of principle concerning the most important problems arising out of the application of this Regulation and, in particular, matters in dispute.

These reports shall be submitted within two months after the end of each half year and shall include the number of cases of irregularities concerning own resources and an overall estimate of the own resources evaded.

The reports shall also describe serious irregularities which could have a significant financial impact on own resources.

#### Article 18

1. Member States shall conduct the checks and inquiries concerning the establishment and the making available of own resources. The Commission shall exercise its powers as specified in this Article.

2. Accordingly, Member States shall:

- carry out additional inspection measures at the Commission's request; in its request the Commission shall state the reasons for the additional inspection;
- associate the Commission, at its request, with the inspection measures which they carry out.

Member States shall take all steps required to facilitate these inspection measures. Where the Commission is associated with these measures, Member States shall place at its disposal the supporting documents referred to in Article 3.

In order to restrict additional inspection measures to the minimum:

- (a) the Commission may, in specific cases, request that certain documents be forwarded to it;

- (b) in the monthly statement of accounts referred to in Article 6 (3), the amounts entered in the accounts which relate to irregularities or delays in the establishment, entry in the accounts and making available of own resources, discovered during the inspections referred to above, must be identified by means of appropriate notes.

3. Without prejudice to the inspections referred to in paragraph 2, the Commission may itself undertake on-the-spot inspections. The officials appointed by the Commission to undertake these inspections shall, to the extent necessary for the correct application of this Regulation, have access to the supporting documents referred to in Article 3 and to all other related documents. The Commission shall give adequate notice of the inspection to the Member State concerned by the inspection or on whose territory the inspection is to take place. Representatives of the Member State concerned may take part in these inspections.

4. The inspection measures referred to in paragraphs 1, 2 and 3 shall not prejudice:

- (a) the inspection measures undertaken by Member States in accordance with their own laws, regulations or administrative provisions;
- (b) the measures provided for in Articles 206, 206a and 206b of the Treaty establishing the European Economic Community and Articles 180, 180a and 180b of the Treaty establishing the European Atomic Energy Community;
- (c) the inspection arrangements made pursuant to Article 209 (c) of the Treaty establishing the European Economic Community and Article 183 (c) of the Treaty establishing the European Atomic Energy Community.

5. The Commission shall from time to time report to Parliament and to the Council on the functioning of the inspection arrangements.

#### TITLE VIII

##### Provisions relating to the Advisory Committee on the Communities' Own Resources

#### Article 19

1. An Advisory Committee on the Communities' own resources, hereinafter called 'the Committee', is hereby set up.

2. The Committee shall consist of representatives of the Member States and of the Commission. Each

Member State shall be represented on the Committee by not more than five officials.

The Chairman of the Committee shall be a representative of the Commission.

The secretariat services for the Committee shall be provided by the Commission.

3. The Committee shall adopt its own rules of procedure.

#### *Article 20*

1. The Committee shall examine the questions raised by its chairman on his own initiative or at the request of the representative of a Member State, which concern the application of this Regulation.

2. At the request of the chairman, the Committee shall give its opinion within a time limit which the chairman may set according to the urgency of the matter in hand, if necessary, by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to request that its position also be recorded in these minutes.

The Commission shall take full account of the Committee's opinion. It shall inform the Committee of the manner in which it has done so.

### TITLE IX

#### **Final provisions**

##### *Article 21*

The Commission shall, by 1 December 1992 at the latest, submit a report on the implementation of this Regulation and, where appropriate, propose any necessary amendments.

##### *Article 22*

The Commission, after consulting the Committee, shall adopt the procedures for implementing this Regulation as and when necessary.

##### *Article 23*

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall have effect from 1 January 1989.

Regulation No 2891/77 is hereby repealed.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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